Montana Department of Natural Resources and Conservation
Water Resources Division
Water Rights Bureau

# ENVIRONMENTAL ASSESSMENT
**For Routine Actions with Limited Environmental Impact**

## Part I. Proposed Action Description

1. Applicant/Contact name and address:

   Harvey Creek Ranch, LLC
   360 Hamilton Ave, Ste. 100
   White Plains, New York 10601

   Morgan Case, Trout Unlimited
   P.O. Box 412
   Helena, Montana 59624

2. Type of action: Applications to Change Water Right Nos. 76G 30113302 & 76G 30130608

3. Water source name: Harvey Creek, tributary to the Clark Fork River in Granite County

4. Location affected by project: Harvey Creek from the new headgate in the SESWNW of Section 29, T11N R14W to a point 0.35 miles above the confluence of Harvey Creek and the Clark Fork River

5. Narrative summary of the proposed project, purpose, action to be taken, and benefits: On December 27th, 2017, the Applicant submitted Application to Change Water Right No. 76G 30113302 to temporarily change the purpose and place of use of Statement of Claim Nos. 76G 108706-00 and 76G 108708-00 from irrigation to instream flow for the benefit of the fishery resource in Harvey Creek. The project also includes a permanent change in point of diversion that is associated with Application No. 76G 30130608. The permanent change involves the retirement of the historical ditch system associated with both claims and the installation of a new headgate and pipeline that will convey water from the location of the new headgate in the SESWNW of Section 29, T11N R14W to irrigate the place of use. Supplemental Claims 76G 126271-00 and 76G 126272-00 are also being changed in separate applications and will be diverted through the same proposed point of diversion and pipeline system. In total, 3.99 CFS will be diverted through the pipeline with all for claims to irrigate a total of 152 acres, of which 2.89 CFS and 139.5 acres will be covered by Claims 76G 108706-00 and 76G 108708-00, plus 0.3 CFS that will be used to fill a proposed stock and recreation pond located in the NWSENW of Section 29. The proposed instream flow rate for both claims is 3 CFS, and the instream place of use will comprise the reach of Harvey Creek beginning at the new headgate down to a point 0.35 miles above the confluence of the creek and the Clark Fork River in the SESWSW of Section 16, T11N R14W. The period of use for instream flow is June 15th to September 7th. In aggregate, the total volume of water that may be used for irrigation (465.8 AF), recreation and stock (1.5 AF), and instream flow (436.7 AF) purposes with Claims 76G 108706-00 and 76G 108708-00 during this temporary change equals 904 AF. The DNRC shall issue a water right change authorization if an applicant proves the criteria in §85-2-402, MCA are met.

6. Agencies consulted during preparation of the Environmental Assessment:

| | |
|---|---|
| Montana Natural Heritage Program: | Species of Concern |
| Montana Dept. of Fish, Wildlife, & Parks: | 2005 Dewatered Stream List |
| Montana Dept. of Environmental Quality: | 303(d) list of impaired streams |
| Montana Dept. of Justice | Natural Resource Damages Program |
| USDA Natural Resources Conservation Service: | Web Soil Survey |

## Part II. Environmental Review

### 1. Environmental Impact Checklist:

# PHYSICAL ENVIRONMENT

**WATER QUANTITY, QUALITY AND DISTRIBUTION**

***Water quantity*** *- Assess whether the source of supply is identified as a chronically or periodically dewatered stream by DFWP. Assess whether the proposed use will worsen the already dewatered condition.*

The Montana DFWP lists Harvey Creek as a chronically dewatered stream. Several habitat impairments to streamflow and riparian habitat as well as fish entrainment in irrigation ditches are affecting species of special concern in the creek. In a published study prioritizing tributaries in the Upper Clark Fork River Basin for fishery entrainment, FWP and the Natural Resource Damages Program found Harvey Creek to be a high-value native trout fishery, and previous FWP studies have identified a target flow rate of 3 CFS for the creek. This project will result in reduced irrigation activity and enhanced streamflows.

*Determination*: No negative impact.

***Water quality*** *- Assess whether the stream is listed as water quality impaired or threatened by DEQ, and whether the proposed project will affect water quality.*

The proposed project will not alter nor adversely affect water quality in Harvey Creek. The purpose of this project is to reduce the extent of irrigation activity and irrigation water use and leave water instream for the benefit of the aquatic ecosystem. Streamflow augmentation resulting from this change in water use will help provide better habitat for critical aquatic species.

*Determination:* No negative impact.

***Groundwater*** *- Assess if the proposed project impacts ground water quality or supply.*
*If this is a groundwater appropriation, assess if it could impact adjacent surface water flows.*

*Determination*: N/A as this change in water use does not involve groundwater.

**DIVERSION WORKS** - *Assess whether the means of diversion, construction and operation of the appropriation works of the proposed project will impact any of the following: channel impacts, flow modifications, barriers, riparian areas, dams, well construction.*

The Applicant proposes to permanently change the point of diversion of Claims 76G 108706-00 and 76G 108708-00 by permanently retiring and replacing the unlined earthen ditch historically used to irrigate the place of use with a new headgate and pipeline conveyance system that will also be used to convey Claims 76G 108706-00 and 76G 108708-00, and supplemental Claims 76G 126271-00 and 76G 126272-00. The headgate in question has a maximum diversionary capacity of 4 CFS, and a fish screen and fish bypass system were installed prior to submission of these water right change applications. There will be no damage to the creek resulting from the authorization of this change since installation of the new irrigation system was completed prior to submission of the change application.

*Determination*: No negative impact

**UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES**

***Endangered and threatened species*** *- Assess whether the proposed project will impact any threatened or endangered fish, wildlife, plants or aquatic species or any "species of special concern," or create a barrier to the migration or movement of fish or wildlife. For groundwater, assess whether the proposed project, including impacts on adjacent surface flows, would impact any threatened or endangered species or "species of special concern."*

The Montana Natural Heritage Program was consulted to determine if there are any threatened or endangered fish, wildlife, plants, aquatic species, or any "species of special concern" that could be impacted by the proposed project. This project includes a permanent change in the point of diversion from the historical ditch system to one new headgate and pipeline that will convey water to the 152 acres that will continue to be irrigated with Claims 76G 108706-00 and 76G 108708-00 and supplemental Claims 76G 126271-00 and 76G 126271-00. The new point of diversion includes a Coanda fish screen and fish bypass, and the water that is proposed to be appropriated instream will be made available from the installation of the pipeline and the reduction in the irrigated acreage. This project will not result in the loss or negative alteration of any wildlife habitat.

*Determination*: No negative impact.

***Wetlands*** *- Consult and assess whether the apparent wetland is a functional wetland (according to COE definitions), and whether the wetland resource would be impacted.*

*Determination*: Project does not negatively impact existing wetlands.

***Ponds*** *- For ponds, consult and assess whether existing wildlife, waterfowl, or fisheries resources would be impacted.*

*Determination*: No negative impact – project does not involve ponds.

**GEOLOGY/SOIL QUALITY, STABILITY AND MOISTURE** - *Assess whether there will be degradation of soil quality, alteration of soil stability, or moisture content. Assess whether the soils are heavy in salts that could cause saline seep.*

*Determination*: This proposed change will not result in any negative impact to surrounding soils.

**VEGETATION COVER, QUANTITY AND QUALITY/NOXIOUS WEEDS** - *Assess impacts to existing vegetative cover. Assess whether the proposed project would result in the establishment or spread of noxious weeds.*

Installation of the headgate and pipeline was completed prior to submission of this water right change application. This application will otherwise have no adverse impact to existing vegetative cover and will not result in the establishment or spread of noxious weeds.

*Determination*: No negative impact.

**AIR QUALITY** - *Assess whether there will be a deterioration of air quality or adverse effects on vegetation due to increased air pollutants.*

There will be no source of pollution associated with the change in water use that will alter air quality.

*Determination*: No negative impact.

**HISTORICAL AND ARCHEOLOGICAL SITES** - *Assess whether there will be degradation of unique archeological or historical sites in the vicinity of the proposed project if it is on State or Federal Lands. If it is not on State or Federal Lands simply state NA-project not located on State or Federal Lands.*

*Determination*: N/A – project not located on State or Federal Lands.

**DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AND ENERGY -** *Assess any other impacts on environmental resources of land, water and energy not already addressed.*

The proposed pipeline is gravity-fed and is not expected to negatively impact surrounding environmental resources.

*Determination*: No negative impact.

## HUMAN ENVIRONMENT

**LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS** - *Assess whether the proposed project is inconsistent with any locally adopted environmental plans and goals.*

*Determination*: No negative impact.

**ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES** - *Assess whether the proposed project will impact access to or the quality of recreational and wilderness activities.*

*Determination*: No negative impact.

**HUMAN HEALTH** - *Assess whether the proposed project impacts on human health.*

*Determination*: No negative impact

**PRIVATE PROPERTY** - *Assess whether there are any government regulatory impacts on private property rights.*
*Yes ___ No _X_ If yes, analyze any alternatives considered that could reduce, minimize, or eliminate the regulation of private property rights*.

*Determination*: No negative impact.

**OTHER HUMAN ENVIRONMENTAL ISSUES** - *For routine actions of limited environmental impact, the following may be addressed in a checklist fashion.*

*Impacts on:*

*(a)* *Cultural uniqueness and diversity?* None identified.

(*b)* *Local and state tax base and tax revenues?* None identified.

*(c)* *Existing land uses?* Irrigated footprint will be reduced – no negative impacts.

(*d)* *Quantity and distribution of employment?* None identified.

*(e)* *Distribution and density of population and housing?* None identified.

*(f)* *Demands for government services?* None identified.

*(g)* *Industrial and commercial activity?* None identified.

*(h)* *Utilities?* None identified.

*(i)* *Transportation?* None identified.

*(j)* *Safety?* None identified.

*(k)* *Other appropriate social and economic circumstances?* None identified.

**2. Secondary and cumulative impacts on the physical environment and human population:**

Secondary Impacts None identified.

Cumulative Impacts None identified.

**3. Describe any mitigation/stipulation measures:** None identified.

**4. Description and analysis of reasonable alternatives to the proposed action, including the no action alternative, if an alternative is reasonably available and prudent to consider:** No reasonable alternatives were identified.

**Part III. Conclusion**

***1. Preferred Alternative:*** None identified.

***2 Comments and Responses***

**4. *Finding:***
*Yes ___ No _X_ Based on the significance criteria evaluated in this EA, is an EIS required?*

*If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action:*

An EIS is not the appropriate level of analysis for the proposed action because no significant negative impacts were identified.

*Name of person(s) responsible for preparation of EA:*

*Name:* Danika Holmes
*Title:* Hydrologist/Water Resource Specialist
*Date:* April 9th, 2020